

R E M A R K S

- Claims 38-39, 43-44, and 47-59 were pending in the present application
- Claims 38-39, 43-44, 48-50, 52-54 and 59 stand rejected
- Claims 47, 51 and 55-58 are indicated as allowable

Upon entry of this amendment, which is respectfully requested for the reasons set forth below:

- Claims 38-39, 43-44, and 47-59 will be pending
- Claims 38, 48-49, 52-54 and 59 will be amended
- Claims 38, 43-44, 47-58 and 51-59 will be the only independent claims

Telephone Interview

Applicants would like to thank the Examiner for the helpful telephone conversation held on August 13, 2002 with Applicants' representative. The Examiner and Applicants' representative discussed the present application in light of the Falciglia and Adams references.

Applicants' representative suggested that the Falciglia reference does not teach or suggest a feature generally directed to *displaying an indicia representing forthcoming expiration of the first class corresponding to the representation of the card*, as now recited in amended independent Claim 38.

Applicants' representative suggested that the Adams reference does not teach or suggest a feature generally directed to *displaying an indicia representing forthcoming expiration of the subject game element*, as now recited in amended independent Claim 52.

The Examiner and Applicants' representative clarified that the Section 112 rejection of Claims 49-50 in the present Office Action should have been directed to Claims 48-50. Applicants address the Section 112 rejection of Claims 48-50 below.

While no formal agreement was reached, Applicants are grateful for the opportunity to discuss the present application with the Examiner.

Comments on Statement of Reasons for the Indication of Allowable Subject Matter

Applicants are grateful for the Examiner's statement that Claims 47-58 and 55-58 are allowed over the prior art of record.

The Examiner states: "the prior art of record lacks in disclosing moving a subject game element from a first location to a second location while displaying an indicia representing the forthcoming expiration of the first class or the subject game element" (emphasis added).

Each of Claims 55-56 recites features of (i) *displaying the subject game element at a first location*, (ii) *displaying the subject game element at the second location*, and (iii) *displaying an indicia representing forthcoming expiration*. Applicants respectfully submit that "moving" of a subject game element is not recited; only displaying of the subject game element at a first location and displaying at a second location are recited. Also, Applicants respectfully submit that none of the steps directed to displaying the subject game element need be performed "while" displaying an indicia representing forthcoming expiration.

Section 112 Rejection

Claims 48-50 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this assertion, for reasons provided below in Response to Arguments.

However, independent Claim 48 has been amended as discussed with the Examiner during the Telephone Interview, to include features generally directed to (i) *displaying the first game subject at a first location*, and (ii) *displaying the first game subject at a second location*. Claim 49 has also been amended in accordance with the amendment to independent Claim 48. Accordingly, Applicants respectfully request that the Examiner withdraw the Section 112, second paragraph rejection of Claims 48-50.

Section 102(e) Rejection

1. Claims 38-39 and 43-44

Claims 38-39 and 43-44 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,971,849 issued to Falciglia ("Falciglia"). Applicants respectfully traverse the Examiner's Section 102(e) rejection.

However, as discussed with the Examiner during the Telephone Interview, independent Claim 38 now recites a feature generally directed to *displaying an indicia representing forthcoming expiration of the first class corresponding to the representation of the card*. Various embodiments of the present invention provide for displaying an indicia representing the forthcoming expiration of a class corresponding to a card. See, e.g., Specification, page 15, lines 1-2; page 19, lines 1-15. None of the cited prior art of record, alone or in combination, teaches or suggests displaying such an indicia.

Accordingly, Applicants respectfully submit that Claim 38, and Claim 39 dependent therefrom, contain allowable subject matter. Applicants also respectfully submit that independent Claims 43-44, which each refer to independent Claim 38, contain allowable subject matter.

2. Claims 52-54

Claims 52-54 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,120,031 issued to Adams ("Adams"). Applicants respectfully traverse the Examiner's Section 102(e) rejection.

However, as discussed with the Examiner during the Telephone Interview, Applicants respectfully submit that Adams does not teach or suggest any of the features generally directed to:

- *displaying an indicia representing forthcoming expiration of the subject game element*



as now recited in independent Claim 52;

- *displaying an indicia representing forthcoming expiration of the first class*

as now recited in independent Claim 53; or

- *displaying an indicia representing a forthcoming change to the subject game element*

as now recited in independent Claim 54.

Various embodiments of the present invention provide for displaying an indicia representing the forthcoming expiration of a subject game element. See, e.g., Specification, page 19, lines 1-15. Various embodiments of the present invention provide for displaying an indicia representing the forthcoming expiration of a class of a subject game element. See, e.g., Specification, page 15, lines 1-2; page 19, lines 1-15. Various embodiments of the present invention provide for displaying an indicia representing the forthcoming change to a subject game element. See, e.g., Specification, page 15, lines 1-2; page 19, lines 1-15. Adams does not teach or suggest displaying any such indicia.

Accordingly, Applicants respectfully submit that Claims 52-54 contain allowable subject matter.

Section 103(a) Rejection

Claim 59 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Adams. Applicants respectfully traverse the Examiner's Section 103(a) rejection.

However, as discussed with the Examiner during the Telephone Interview, Applicants respectfully submit that none of the cited prior art of record, alone or in combination, teaches or suggests any of the features generally directed to:

- *displaying an indicia representing forthcoming expiration of the subject game element*

as now recited in independent Claim 59.

As discussed above with respect to Claims 52-54, various embodiments of the present invention provide for displaying an indicia representing the forthcoming expiration of a subject game element. See, e.g., Specification, page 19, lines 1-15. Adams does not teach or suggest displaying any such indicia. Accordingly, Applicants respectfully submit that independent Claim 59 contains allowable subject matter.



Response to Arguments

Applicants respectfully submit that Claims **48-50** (as pending prior to this amendment) (i) set forth subject matter that Applicants regard as their invention, and (ii) particularly point out and distinctly define the metes and bounds of the subject matter to be protected. See MPEP § 2171.

Applicants respectfully submit that one having ordinary skill in the art would be able to determine, with a reasonable degree of certainty, that the scope of independent Claim **48** includes steps generally directed to (i) displaying a first subject game element at a location, and (ii) displaying a second subject game element at the same location. See MPEP § 2173.02. In fact, the Examiner asserts such an understanding. Accordingly, Applicants respectfully submit that Claims **48-50** (as pending prior to this amendment) meet the requirements of Section 112, second paragraph.

The Examiner states: "The claims are written such that the first and second subject game elements are in the same location. This cannot be the case unless the first subject game element has been placed elsewhere. Consequently, the fact that the first subject game element is moved to a second location needs to be included in the claim language."

Applicants respectfully traverse the Examiner's assertion that "This cannot be the case unless the first subject game element has been placed elsewhere." Independent Claim **48** is clear in that its scope does not require the "placing" or any other type of "movement" of the first subject game element. Independent Claim **48** clearly requires only that during the performance of the claimed method, each of the first and second subject game elements is displayed at a particular location. In light of the specification and the knowledge of one having ordinary skill in the art, one having ordinary skill in the art would be able to determine the scope of the claimed subject matter as well as various embodiments for practicing the claimed subject matter, which need not be limited to either "placing" or "moving" of the first subject game element.

The Examiner does not assert that Applicants have stated, somewhere other than in the application as filed, that the invention is something different from what is defined by the claims. Applicants have not made such a statement. Accordingly, Applicants respectfully traverse any assertion or implication that Claims **48-50** (as pending prior to this amendment) do not set forth the subject matter that Applicants regard as their invention. See MPEP § 2172.

Conclusion

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

Please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

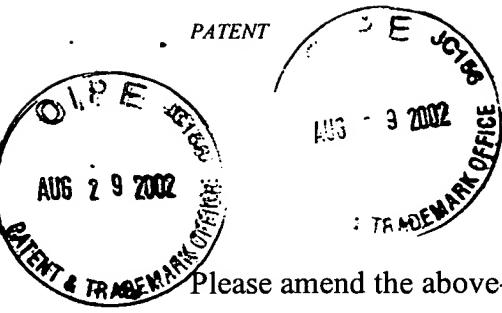
If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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Date



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A M E N D M E N T

Marked-Up Version

Please amend the above-identified application as follows:

IN THE CLAIMS:

Please **REPLACE** Claims **38, 48-49, 52-54 and 59** as follows:

38. (AMENDED) A method for directing a computing device to conduct a game of chance, the method comprising the steps of:

generating a [subject game element] representation of a card having a first class;

displaying the [subject game element] representation of the card, thereby displaying an indicia of the first class; and

displaying an indicia representing forthcoming expiration of the first class corresponding to the [subject game element] representation of the card.

48. (AMENDED) A method comprising:

generating a first subject game element having a first class;

displaying the first subject game element at a first location, thereby displaying an indicia of the first class;

in response to expiration of a period of time, assigning a second class to the first subject game element;

displaying the first subject game element at a second location, thereby displaying an indicia of the second class;

generating a second subject game element having a third class;

before the expiration of the period of time, displaying the second subject game element at the first location, thereby displaying an indicia of the third class.

49. (AMENDED) The method of claim 48, further comprising:

receiving a placement signal; [and]

in which displaying the first subject game element at [a] the second location comprises:

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displaying the first subject game element at the second location based on the placement signal.

52. (AMENDED) A method comprising:
- generating a subject game element having a first class;
- displaying the subject game element at a first location, thereby displaying an indicia of the first class;
- receiving from a player a placement signal that indicates a second location;
- displaying the subject game element at the second location;
- displaying an indicia representing forthcoming expiration of the subject game element;
- and
- receiving a signal via a lock button, the signal effective to prevent the subject game element from expiring.

53. (AMENDED) A method comprising:
- generating a subject game element having a first class;
- displaying the subject game element at a first location, thereby displaying an indicia of the first class;
- receiving from a player a placement signal that indicates a second location;
- displaying the subject game element at the second location;
- displaying an indicia representing forthcoming expiration of the first class; and
- receiving a signal via a lock button, the signal effective to prevent the first class from expiring.

54. (AMENDED) A method comprising:
- generating a subject game element having a first class;
- displaying the subject game element at a first location, thereby displaying an indicia of the first class;
- receiving from a player a placement signal that indicates a second location;
- displaying the subject game element at the second location;
- displaying an indicia representing forthcoming change of the subject game element; and

receiving a signal via a lock button, the signal effective to prevent the subject game element from changing.

59. (AMENDED) A method comprising:
- generating a subject game element having a first class;
 - displaying the subject game element at a first location, thereby displaying an indicia of the first class;
 - receiving from a player a placement signal that indicates a second location;
 - displaying the subject game element at the second location;
 - displaying an indicia representing forthcoming expiration of the subject game element;
- and
- in response to expiration of a period of time, erasing the subject game element.